GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri Bukka Sudhakar Naik, S/o Bukka Rathinamma & Sri Bukka Anand Naik S/o Bukka Rathinamma, Secondary Grade Teachers, Kadapa District, against the proceedings No.Ref.C5.8637/97, dated 20.08.2002 of the District Collector, YSR Kadapa District, under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders -Issued.

SOCIAL WELFARE(TW.CV.2) DEPARTMENT

G.O.Ms.No.130 Dated: 06.08.2018
Read the following:

1. Proceedings of the Dist. Collector, Kadapa, No.C5.8637/97, dt.20.08.2002.
2. Appeal Petition from Sri Bukka Sudhakar Naik & Bukka Anand Naik, Secondary Grade Assistants, S/o Bukka Rathinamma, Kadapa District dt.18.09.2002 received through M(TW), Dt: 30.09.2002.
3. Govt. Memo No.14857/CV.2/2002, dated 18.10.2002.
4. From the District Collector, Kadapa, Lr. Rc.No. C5/1010/M/ 2002, dt.12.11.2002.
5. Govt. Memo No.14857/CV.2/2002, dated 10.12.2002, 24.01.2003, 09.04.2003, 26.05.2003 & 02.07.2003.
6. E-Govt. Memo No.14857/CV.2/2002, dated 04.08.2003.
7. Govt. Memo No.14857/CV.2/2002, dated 07.11.2003, 09.02.2004 & 02.11.2005.
8. Telegram No. Govt. Memo No. 14857/CV.2/2002, dated 10.02.2006.
9. Govt. Memo No.14857/CV.2/2002, dated 20.02.2006, 04.03.2006, 01.08.2006, 12.09.2006, 05.06.2007, 07.11.2007 & 17.06.2008.
10. Govt. Letter No. 14857/CV.2/2002, dated 14.08.2008.
11. Govt. Memo No.14857/CV.2/2002, dated 30.04.2012, 31.08.2013, 10.04.2015, 22.05.2015, 17.11.2015, 07.12.2016, 12.01.2017, 29.05.2017, 28.11.2017 & 31.01.2018.

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ORDER:

In the reference 1st read above, the District Collector, Kadapa has issued orders cancelling ST-Sugali caste certificates of Sri Bukka Sudhakar Naik, S/o Bukka Rathinamma & Sri Bukka Anand Naik S/o Bukka Rathinamma and declared them to be the members of Kapu(OC) community.

2. In the reference 2nd read above, Sri Bukka Sudhakar Naik, & Sri Bukka Anand Naik, have filed an Appeal Petition before the Government, against the Proceedings of the District Collector, Kadapa. After examining the said Appeal Petition, Government have admitted the Appeal Petition & granted stay on the proceedings of the District Collector and called for the parawise remarks and connected records from the District Collector, Kadapa in the reference 3rd read above.

3. In the reference 4th read above, the District Collector, Kadapa has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri Bukka Sudhakar Naik, & Sri Bukka Anand Naik.

4. The said Appeal Petition has been posted for hearing on 31.12.2002, 26.02.2003, 28.04.2003, 07.06.2003, 19.07.2003, 20.09.2003, 06.12.2003, 27.02.2004, 08.11.2005, 14.02.2006, 24.02.2006, 20.03.2006, 05.08.2006, 23.09.2006, 14.06.2007, 20.11.2007, 30.06.2008, 23.08.2008, 11.05.2012, 12.09.2013, 23.05.2015, 13.06.2015, 28.11.2015, 24.12.2016, 24.01.2017, 17.06.2017, 16.12.2017 & finally on 17.02.2018 and the same has been informed to the Appellant and the Counsel for the Appellant in the references 5th to 11th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. The Appellate Authority has conducted final hearing on the said appeal petition on 17.02.2018 and the appellant i.e. Sri Bukka Sudhakar Naik was attended the hearing and argued their case.

5. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant/ the parawise remarks submitted by the District Collector, Kadapa and proceedings of the District Collector, Kadapa dated 20.08.2002, the Appellate Authority is observed that :

I. The appellants in their grounds have stated that the appellants biological father Odiveeti Krishna Reddy met with an accident and sustained severe injuries left

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with little hope of recovery, he gave his minor sons for adoption to one Rathinamma, W/o Narasing Naik @ Krishna Naik, Papireddigaripalli village, Sambepalle Mandal, Kadapa District, who belongs to ST-Sugali community and said adoption was under an agreement dated 26.01.1975 and subsequently the adoption was registered and continued their studies by staying at ST Boys Hostel, Cuddapah.

II. They have also stated that the voters list of papireddigari palle H/o Setti Palli, Sambepalli Mandal, Cuddapah District, the names of the appellants were mentioned in the Ration Card also the appellants names mentioned along with the name of Rathinamma and the learned District Collector failed to furnish copies of preliminary report submitted by the MRO, Sambepalli to the appellants and no opportunity was given to cross examine any witnesses. Hence the enquiry is vitiated by non-observance of due process of law and procedural fairness as held in judgment of the Hon'ble High Court report. They were with her adoptive mother Smt. Rathinamma from childhood and suffered all the disadvantages or handicaps which the members of homogenous group, class or tribe or subjected to have undergone the sugali community elders also recognized them as sugali people.

III. The District Level Scrutiny Committee has observed that the Mandal Revenue Officer, Sambepalli has reported that Smt. B.Rathnamma, the adoptive mother is living alone at Papireddipalli and is a holder of single member ration card bearing No.301763 and coupon No. 418285. As such, if the names of the appellants are found a place in the voters list of Papireddipalli (V), it should have been an account of misrepresentation of facts. Even the ration card of Smt. B. Rathnamma also contains only her name, according to the report of the MRO. Therefore, their names in the ration card of Smt. B.Rathnamma should have been post-scribed. She is a destitute. She is an old age pensioner vide OAP No. 483/1997. If she is supported by the adopted sons, she would not be a OAP, sanctioned. It can also be observed, the names of the two appellants are found in the voters list of 153 Lakki–Reddipalli a/c, 1995 (p.s.no.134) at Sl. Nos 49 and 533, in the list of other Reddy(OC) caste people ie. , their original caste people, it indicates that they live with their co-Reddy caste people only and are assimilated with the Reddy (Kapu) community. Further it is observed that Affidavits of the Banjara Caste elders and other villagers were meticulously examined and taken into consideration before passing final orders and if a document support a false content, then such document is not tenable to be considered as reliable evidence. As such, affidavits of the Banjara caste elders are not tenable documents and therefore the statements were not considered. Finally based on the findings of the DLSC, judgment of the Hon'ble APHC in WP. No. 6365/2002 & the report of the MRO, Sambepalli, the District Collector has cancelled the appellant's caste certificates.

IV. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

V. The Appellate Authority is observed that during the course of hearing of the case, the appellant submitted their arguments as per their grounds in appeal petition and stated that the lower authority failed to observe that his biological father met with an accident and sustained severe injuries and gave his minor sons for adoption to one Rathinamma who belongs to schedule tribe community and the said adoption was under agreement and they lived with her and continued their studies at ST boys hostel and they got jobs under ST quota and mere marriages with other community does not change the social status and as such the impugned order shall be cancelled. On verification of the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that except the above contention nothing was placed for appreciation of the case of the appellants and they failed to produce any evidence that they accepted by the tribal society on adoption. The adoptive mother deposed before the Mandal Revenue Officer that she is ignorant of the adoption and she is illiterate. That the appellants never lived with the adoptive mother at any point of time and the appellants married the persons belongs to the caste of their biological father. It is also observed that the individuals are never in the fold of schedule tribe and they were not accepted by the tribal society. It is further noticed that the certificates earlier issued to the

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individuals in a routine manner and the same were cancelled after conducting detailed and thorough enquiry into the caste status of the individuals. That as per the Act that the burden of proof lies on the appellant and it is the responsibility of the appellant to produce necessary evidence and documents to claim the same. As seen from the record the lower authority passed the order after reasonable appreciating the evidence available on record as per law which deserves no interference.

VI. Further it is observed that in Circular Memo. No.10956/CV1/97-2, S.W(CV) Department, dt.16.2.1998 instructions were issued by the Government for issuance of Caste Certificates. As per the said instructions, the adoption rules are as follows:

I. In deciding whether an adoption is valid, the certificate issuing Authority should satisfy himself that all the requirements of law have been complied with. He should also take into account the behavior of the child after adoption whether he physically lives with and is supported by his adoption parents and receives no financial help from his original parents. In case these conditions are not satisfied, the certificate should be refused.

II. The Caste Certificates in case of adoption children by Scheduled Caste and Scheduled Tribe parents, the powers are delegated to Joint Collectors. The Joint Collectors should exercise greater care in issuing of this type of certificate.

III. The Caste Certificates in the above cases shall be issued only for the children below 15 years of age. The adopted children should live for a minimum period of 5 years with the adopted parents for issue of Caste Certificates in the adoption cases.

Hence it is apparent that the appeal is devoid of any merits and there is no infirmity either in the findings of the DLSC or the learned District Collector, Kadapa District. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority passed the order as per law which does not deserve any interference.

6. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993, decide that the appeal petition filed by Sri Bukka Sudhakar Naik, & Sri Bukka Anand Naik, does not deserve any interference. Hence, Proceedings of the District Collector, Kadapa issued vide C5.8637/97, dt.20.08.2002, is hereby upheld and the Appeal Petition filed by Sri Bukka Sudhakar Naik, & Sri Bukka Anand Naik, is hereby dismissed.

7. The District Collector, YSR Kadapa is directed to take necessary consequential action in the matter.

8. The records (containing R.Dis.No.C5.8637/97, dt.24.09.2002, CF: 285, NF: 19) received from the District Collector, YSR Kadapa through in the reference 4th read above, are returned herewith in original to the District Collector, YSR Kadapa and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, YSR Kadapa.
(with original records) (BY RPAD)

Sri Bukka Sudhakar Naik & Sri Bukka Anand Naik,
Secondary Grade Assistants, S/o Bukka Rathinamma,
Mandal Parshad upper primary School,
Ekilapalli, Ramapuram(M), Kadapa District.

Sri D. Kodandarami Reddy, Advocate,
Flat No.201, 2nd Floor,Sri Sravani Residency, Kanthi Nagar,
Mahadipatnam, Hyderabad-500028.

The District Educational Officer, YSR Kadapa.

Copy to:
The Director, TCR & TI, A.P., Amaravathi.
The PS to Hon'ble Minister(SWE&TWE)
The P.S. to Principal Secretary(SW& TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER